

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ANGELA NAILS,

Plaintiff,

No. 3:15-cv-1032-JE

v.

OPINION & ORDER

ERIC BEACH,

Defendant.

HERNÁNDEZ, District Judge:

On September 17, 2015, this Court adopted Magistrate Judge Jelderks' Findings & Recommendation which granted *pro se* Plaintiff's application to proceed *in forma pauperis*, denied Plaintiff's motion for *pro bono* counsel, and dismissed Plaintiff's complaint. Plaintiff was given leave to file an amended complaint curing the defects described in the Findings & Recommendation. Plaintiff was warned that if she failed to file such an amended complaint, the case would be dismissed with prejudice.

On November 25, 2015, Plaintiff filed an amended complaint. However, Magistrate Judge Jelderks, upon review of the complaint, wrote in a Findings & Recommendation:

In my previous Findings and Recommendation, I explained that if Plaintiff were to file an amended complaint, she must allege sufficient facts to satisfy the federal pleading standard set out by the federal rules of civil procedure and the Iqbal and Twombly cases. Plaintiff was also directed to set out a basis for this court's jurisdiction that complies with Fed. R. Civ. P. 8(a) and the applicable jurisdictional statutes. Plaintiff's amended complaint fails to fulfill either of these requirements.

The allegations in Plaintiff's amended complaint are, if anything, more vague and incomprehensible than those contained in her original complaint.

Findings & Recommendation 2-3, January 27, 2016, ECF 18. Therefore, Judge Jelderks recommended that this Court dismiss Plaintiff's complaint with prejudice. On February 23, 2016, this Court adopted the Findings & Recommendation and entered an Order and Judgment dismissing Plaintiff's complaint with prejudice.

On March 7, 2016, Plaintiff filed a "Motion to Order a Complaint to be Filed without Prejudice." The entirety of Plaintiff's motion is as follows:

The Plaintiff is seeking to file a complaint with the Court in the State of Oregon not within the District Court jurisdiction of the District Court of Oregon. The Plaintiff request to know is the Court allowing refiling the Plaintiff complaint in another Court jurisdiction. Plaintiff is seeking No prejudice against that Court to file a new complaint against the Defendant.

ECF 24. While Plaintiff's current motion is not entirely clear, the Court construes it as requesting the Court to change its ruling dismissing the case with prejudice to a ruling dismissing the case without prejudice.

Federal Rule of Civil Procedure 41(b) authorizes a district court to dismiss a complaint with prejudice for failure to comply with Rule 8(a). Hearns v. San Bernardino Police Dep't, 530 F.3d 1124, 1130 (9th Cir. 2008). "The district court's discretion to deny leave to amend is particularly broad where plaintiff has previously amended the complaint." Salazar v. Cnty. of

Orange, 564 F. App'x 322 (9th Cir. 2014) (quoting Metzler Inv. GMBH v. Corinthian Colls., Inc., 540 F.3d 1049, 1072 (9th Cir. 2008)).

Both Magistrate Judge Jelderks and this Court spent time trying to understand Plaintiff's complaints and offer guidance to Plaintiff on how to comply with the Federal Rules of Civil Procedure. Plaintiff was unable or unwilling to comply, and she offers no explanation in her current motion for her failure to comply. Plaintiff also does not provide any argument or evidence that she would be able to state a claim that complied with the Rules if she was given leave to file another complaint. Because Plaintiff was warned to correct the defects specified by the Court, and because Plaintiff failed to do so, her Amended Complaint was properly dismissed with prejudice.

As to Plaintiff's request for the Court to "allow" her to file her case in state court, while the Court acknowledges that state courts generally are bound by federal law in determining the preclusive effect of federal court judgments, Aguirre v. Albertson's, Inc., 201 Or. App. 31, 46, 117 P.3d 1012, 1021 (2005) (citing Heck v. Humphrey, 512 U.S. 477, 488 n. 9 (1994)), the Court lacks the authority to determine whether or not a state court should or will allow Plaintiff to file a complaint.

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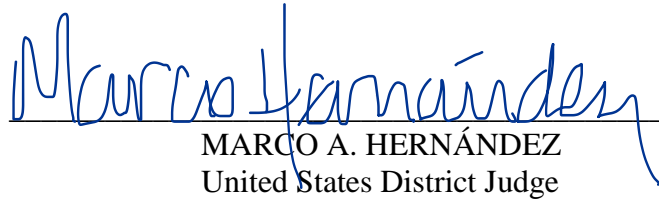
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CONCLUSION

Plaintiff's "Motion to Order a Complaint to be Filed without Prejudice" [24] is denied.

IT IS SO ORDERED.

DATED this 16 day of April, 2016.


MARCO A. HERNÁNDEZ
United States District Judge